



NWWAC advice in response to the TARGETED CONSULTATION ON THE ACTION PLAN TO CONSERVE FISHERIES RESOURCES AND PROTECT MARINE ECOSYSTEMS

20 December 2021

1. Introduction

The North Western Waters Advisory Council (NWWAC) welcomes the opportunity to provide advice on the “Action Plan to conserve fisheries resources and protect marine ecosystems” announced in the EU Biodiversity Strategy for 2030, as it will help to improve the implementation of the Common Fisheries Policy (CFP) and fully exploit the links between fisheries and environmental policies. The NWWAC Focus Group Climate & Environment met on 17 and 29 November 2021 to discuss the preparation of the following response to the targeted consultation on the Action Plan, which was then approved by the Executive Committee on 20 December 2021.

Questions included in the targeted consultation focused mainly on asking for structured information and/or scientific evidence to support specific assumptions. The NWWAC felt that a more traditional advice format would be more appropriate to collate members’ contributions. NWWAC recommendations are distributed in the five paragraphs below, each one focusing on a specific topic reflecting the structure of the consultation.

The NWWAC acknowledges that the Technical Measures Regulation (TMR) provides the framework needed for the full implementation of the CFP and contributes to the EU environmental legislation, as mentioned in the recently published first report on implementation of the TMR. Because this report was published only two years after the entry into force of the Regulation, the Commission notes that it has not been possible to fully assess if TMR objectives have been met at regional or EU level. Nonetheless, the Commission observes that Member States have already started to develop additional fisheries measures to protect sensitive species and habitats at both national and regional levels. However, the report also found that further action and more decisive steps are needed if the goals of the EU Biodiversity Strategy for 2030 are to be met.

While the NWWAC welcomes this initiative from the Commission, it is the opinion of its member that it would be important to first evaluate to which extent the measures implemented have contributed to the achievement of the regulation’s objectives and targets before introducing new measures. The NWWAC recommends that not only the technical measures and their effects are evaluated but also the appropriateness of the type of legal basis through which they have been adopted (TMR, delegated acts, TACs and quotas regulations). The latter to ensure that technical measures are adopted through the most appropriate legal basis to allow visibility in term of conservation of resources and sustainable management of fisheries.

Data collection and data quality should be addressed as a priority, as they pose great challenges to the establishment of effective management measures. Fully documented fisheries are lacking in some cases, and this affects management decisions on métiers, species and habitats that are most in need of consideration regarding biodiversity and focused action. Having a sound scientific basis is crucial to achieve balanced objectives across all three pillars of sustainability, allowing for both the better protection of threatened ecosystems and a thriving and competitive European fishing sector. At the same time, involving stakeholders in the decision-making process is vital to ensure that these measures and strategies are just, inclusive and effective.



The NWWAC wishes to emphasise that fisheries are not the only impact on the marine environment. The effects of other human activities (for example pollution from land-based sources, energy production, shipping) and climate change should also be taken into account in decision making regarding management and conservation of marine habitats and sensitive species. In that perspective, the NWWAC asks the Commission to evaluate the impacts of all practices that have effects on the resources and the marine ecosystem prior to publication of the Action Plan. Additionally, the NWWAC wishes the Commission to clarify the process of adoption of the Action Plan and to what extent the report on TMR and the results of the future report on the functioning the CFP will be taken into account.

2. Selectivity

Fishers have to cope with a number of challenges when considering the adoption of new gears or fishing techniques. The greatest one is presented in adopting or designing a new, more selective fishing gear/technique as in avoiding the loss of commercially targeted species while also solving the selectivity issue in question. If new selective gear is introduced over time, the cost of this can be minimised. The introduction of new selective gears becomes an economic issue when introduced arbitrarily and without consultation with the fishing industry affected. New selective measures work best when given time to blend into their individual fisheries.

Moreover, the majority of fishing gear is repaired regularly over decades before it reaches the end of its life. As mentioned in the [multi-AC Advice on the implementation of the Single Use Plastics Directive and operational aspects of the Fishing for Litter Scheme](#), more focus should be put on the social dimension to study what impact the new legislation may have on human behaviour and current practices. Additional incentives and funding should be made available.

Therefore, the NWWAC recommends to first assess the results of the current technical measures in place and their effectiveness prior to considering additional measures, especially in relation to selectivity. In the past, the NWWAC has advised to prioritise measures which not only minimise the amount of unwanted catches (and thus the risk to choke a fishery), but also help the relevant stocks recover to mitigate chokes in the longer-term. Members strongly believe that it is crucial to identify those measures which are most effective at allowing small fish to escape alive. Accordingly, evaluations should continue regarding the effectiveness of these measures to protect a stock from being fished unsustainably and ensuring survivability of fish escaping the net.

The NWWAC wishes to highlight the following issues in relation to specific species, where too many juveniles or too many sexually mature fishes may be caught, preventing the optimal yield from being achieved in a sustainable manner. These issues have also been mentioned in previously approved recommendations¹:

- Looking at plaice in 7d-e and at sole in 7d, the NWWAC recommends continuing working on selectivity as a priority to avoid the catch of juvenile fish, as mentioned in the NWWAC advice on Fishing Opportunities for 2022. Furthermore, in order to protect juveniles, the NWWAC recommends that measures to protect nursery areas as implemented in France, are considered in other relevant areas in 7d. Gears used for the sole fishery often lead to unavoidable unwanted catches as the mesh sizes reflect the smaller minimum conservation reference size (MCRS) than for other species. Therefore, in the objective of continuing to increase selectivity, the majority of the NWWAC members would support an initiative to increase the MCRS for sole in 7d to 25 cm.
- ICES issued zero catch advice for cod in division 6a. The NWWAC agrees that management measures taken so far around this stock need to be questioned and evaluated, as they have not resulted in a recovery of the stock. A strong focus needs to be placed on rebuilding this stock, whilst the NWWAC

¹ NWWAC advice addressing choke risk in NWW after exemptions – [Link](#)
NWWAC advice on fishing opportunities 2022 - [Link](#)



recommends to also take into account the potential consequences of other aspects like climate change and predation.

- The NWWAC notes that there is 92% of discarding for whiting in 7a, as reported in the latest ICES advice. Indeed, the majority of whiting caught in 7a are discards in the Nephrops fishery and are below the minimum conservation reference size. In a [letter sent on 21 April 2020](#), the NWWAC recommended the Commission to request STECF to evaluate the current technical measures in place in the Irish Sea taking into account the results from the Bord Iascaigh Mhara (BIM) and the Northern Ireland gear trials² and to identify those gears which are most successful at eliminating whiting below MCRS in the Nephrops fisheries in the Irish Sea (Area 7a). This should be done with the objective of ensuring optimum selectivity of the measures in place to exclude undersized whiting.
- Cod in the Irish Sea is also a stock that requires ongoing careful management. It remains a potential bycatch in other fisheries and approaches (Technical Measures introduced in 2019 and closed period) have been taken to reduce or avoid unwanted catches in the directed Nephrops and haddock fisheries. However, discard information remains very imprecise and greater effort is needed to improve the understanding of discard estimates.

Furthermore, the NWWAC recommends that the following innovations in fishing techniques/gears are taken into account³:

- Escape corridor – counter-herding device to reduce fish catches in multi-rigged Nephrops trawls⁴. Further testing required in Irish Sea with a view to reducing whiting catches.
- Illuminated raised fishing line – Green Led lights placed on the raised fishing line in the Celtic Sea substantially reduced catches of haddock⁵. This gear is still under development.
- Dual codend – adopted by elements of the Irish Nephrops fleet to effectively separate Nephrops from fish catches allowing appropriate codend mesh sizes and orientations to be used for each⁶.
- In the Celtic Sea and in the Bay of Biscay, tests are being carried out through the [CELSELECT project](#) on different fishing devices that limit unwanted catches while preserving the economic efficiency of the activity.
- The [REDRESSE project](#) has made it possible to test a large number of devices on different gears in the Bay of Biscay (bottom trawlers, pelagic trawlers, Danish seine). The [OPTISEL project](#), funded by the EMFF and FFP, identified three areas of work in order to improve selectivity, reduce unwanted catches and reduce pressure on marine ecosystems.
- The [CAPS project](#) helps fishers to test or modify gears that are nearly adopted by the sector or that are already used on other maritime areas.

² More information and reports on the Northern Ireland gear trials are available on their Facebook page: [Link](#)
Publications on BIM trials available here: [Link](#)

³ Many innovative gears and programs on selectivity are mentioned here:
https://www.aglia.fr/wp-content/uploads/2019/10/120-la_selectivite_en_action.pdf
<https://www.ifremer.fr/peche/Le-role-de-l-ifremer/Recherche/Thematiques/Technologies-pour-l-observation.-la-comprehension-et-l-exploitation-durable-des-ecosystemes/Selectivite>

⁴ [Link](#)

⁵ [Link](#)

⁶ [Link 1](#) and [Link 2](#)



- The [GALION project](#) uses knowledge of the distribution of catches in the Gulf of Lion trawl fisheries to limit discards of undersized commercial species and allow more sustainable exploitation of these species⁷.
- The Asselin shrimp trawl is a device developed by the fishermen of the Somme Bay and made mandatory in the Hauts de France.⁸
- The [REJEMCELEC project](#) aimed at improving the selectivity of bottom trawls in the West Channel and Celtic Sea and has shown very encouraging results.

3. Sensitive habitats

The NWWAC wishes to highlight that in order to preserve sensitive habitats, each site to be protected will require its own individual management plan to protect the different aspects of the habitat or species for which the site will have been assigned. Prior to measures adoption and implementation, it is important to define the methods for achieving the objectives set. A solid baseline of scientific data should also be obtained for the species or habitats to be protected. Marine habitats to be protected can differ in sensitivity, resilience potential and ecological values and as such, applicable rules and measures should be adapted to these specificities. However, there are a few general recommendations:

- Impact assessments of human activities should be conducted prior to establishing marine protected areas (MPAs) in relation to the conservation objectives of each site. It is fundamental to assess the impact of other human activities than fisheries, including those located outside the protected area but which may alter the conservation status of the habitat / species considered, as well as to assess the responsibility for each activity in its state of conservation.
- Differing levels of protected areas should be considered (from non-extractive which will have a major impact on fisheries to specified gear only areas or where practices are adapted/modified) so that conservation benefits can accrue whilst minimizing the impacts on fishers.
- A nuanced gear-specific approach, possibly taking into account gears' precise configurations (e.g. type of rigging, weight, etc.) should be permitted especially in relation to fisheries-related impacts on habitats of concern.
- An effective MPA should be based on close and timely stakeholder consultation, starting at as early stage as possible, in particular with the fishing and seafood industry. As fishers are likely to be greatly impacted by MPAs, careful consideration needs to be paid to ensure a balanced trade-off between socio-economic impacts on coastal communities reliant on commercial fishing and habitat protection. Any restrictions on activities within MPAs should be as equitably borne by all sectors as possible.
- A full economic and social impact assessment should be carried out prior to the establishment of protected areas. This should take into account the cumulative impacts (both positive and negative) of all MPAs in the region, as well as the direct and indirect effects of displacement of effort for the region, in particular the displacement of effort to areas currently not frequented by fishing vessels. Where possible, protection zones should be established on sites where there is no or limited fishing activity at present, thus avoiding displacement of fisheries and maximizing the chances of a good state of habitat

⁷ A report on selectivity is presented here: <https://www.amop.fr/wp-content/uploads/2018/07/GALION-Rapport-Se%CC%81lectivite%CC%81.pdf>

⁸ [Link](#)

conservation. MPA designation should take account of existing infrastructures (e.g. wind-farms, aggregate extraction sites), so that global loss of activity is minimised.

- Quantifiable monitoring points should be established to demonstrate whether the conservation objectives are being met. They should be monitored and reviewed routinely to ensure they remain fit for purpose. This review should be conducted in a timely manner to allow for appropriate amendments. There needs to be a mechanism where protected areas can be revisited should a new fishery emerge. The advantage of providing adaptive management is further justified by the effects of climate change.
- Opportunities for synergy between fisheries management efforts and conservation purposes should be exploited. For example, Other effective area-based conservation measures (OECMs) can complement MPAs and contribute to ecologically representative and effectively managed MPAs systems integrated into broader governance systems such as marine spatial planning. OECMs allow for a variety of sustainable use sectors to contribute to meeting conservation targets through their own area-based management initiatives. This is a very valuable opportunity whose implementation should be kept as flexible as possible, depending on the area specificities. Recognizing OECMs as part of MPAs networks also makes conservation a multi-sectoral effort and explicitly acknowledges the needs of people (e.g., food security, income generation, livelihoods, cultural values).
- Adequate time, financial and human resources, as well as a sufficient control effort, are fundamental for a good and effective management and enforcement of protected areas.
- The NWWAC wishes to emphasise that the maritime space is used by many different sectors and subject to various anthropic impacts (submarine cables, aggregate extraction, dredging-immersion, concrete coastline, pollution, recreational fishing, etc.). The targeted consultation dedicates only one question to the impacts of other human activities on the seabed. However, the main activities identified in the Marine Strategy Framework Directive (MSFD) framework causing a physical loss of marine habitat are coastal artificialization, solid waste disposal and marine renewable energy. These sectors must therefore be taken into account in the Action Plan in the same way as fishing. Thus, risk analysis of these activities must be carried out leading to measures which limit their impact on sensitive habitats.
- Pollution from land must also be integrated into an analysis of the pressures on sensitive habitats and species. Land-based pollution of industrial, domestic or agricultural origin is introduced into the sea via waterways, either in a diffuse manner or in the form of large spills. Their impacts are poorly known, but achieving good ecological status of inland waters is a requirement for limiting these pressures. The European Environment Agency⁹ shows that 60% of these waters are still not in a good state and that the Water Directive has so far only allowed a relative improvement on this subject.

4. Bottom trawling

The NWWAC recommends that bottom trawling should continue in all appropriate areas. The management plans for each individual MPA will be designed to protect the ecosystem and habitats concerned and restrictions on bottom trawling should apply only where scientific evidence requires this.

The NWWAC considered the [ICES advice following a request from the EU on how management scenarios to reduce mobile bottom fishing disturbance on seafloor habitats affect fisheries landing and value](#). The advice

⁹ EEA (2021), *Ecological status of surface waters in Europe*, <https://www.eea.europa.eu/ims/ecological-status-of-surface-waters>

presents management scenarios that balance the economics of bottom trawling with the protection of MSFD broad habitat types by ensuring trawling continues to be concentrated in highly trawled core grounds that are already impacted and reduced in peripheral grounds that are lightly trawled.

The NWWAC notes that this advice only considers vessels greater than 12 m. As mentioned in the advice document, “VMS data on the location of fishing by vessels smaller than 12 m are not available and are not included in the assessment. Bottom trawling fishing intensity can therefore be underestimated in certain areas. This underestimation is expected to be strongest in coastal areas”. Thus, while the analysis carried out by ICES is interesting from a theoretical point of view, not all socio-economics impacts could possibly have been considered. It is important that smaller segments of the fleet, where vessels are not using VMS, are not excluded from discussions to avoid the risk of closing a fishery. Each area, including peripheral grounds, must be investigated individually to understand its peculiarities (resilience and status of habitat, type and intensity of fishing activities) and needs in terms of conservation and socio-economic impacts. Moreover, the NWWAC recommends that the different métiers are identified and distinguished in the study. The spatial resolution adopted should be refined and thresholds of acceptability of biomass losses in the benthic ecosystems be defined. The effects of the report of fishing effort must be better understood. The biases of the scenarios, concerning the working hypothesis that the fishery resource is uniformly distributed and that the fishery is flexible (being able to free itself from fishing rights, distance from ports, etc.) are useful for the study but do not allow a concrete application of the recommendations. Finally, the reference years used for the study can also be questioned (with recent changes and reductions in the fleets, but also in relation to Brexit).

The NWWAC wishes the Commission to first evaluate measures that have been taken on bottom trawling.

5. Sensitive species

Certain species will be identified as needing extra or exceptional protection. There are many examples of prohibited species and gear attachments introduced to protect species of concern. This can be achieved in conjunction with the fishing industry to achieve the most effective method while maintaining the fishery in question.

The NWWAC would like to refer to the [advice submitted in December 2020 on incidental cetaceans bycatch in the NWW](#). The advice mentions a lack of specific data on cetaceans movements in the North Western Waters and proposes a set of recommendations in this regard. In particular, the advice strongly recommended “*that increased scientific research on the populations of not only common dolphins, but also PET species, be carried out in the North Western Waters, including the impact of climate change, pollution etc.*”.

Regarding skates and rays species in the NWW, the NWWAC issued [advice on best practice measures for their management in April 2021](#). This advice includes a list of innovative fishing gears/techniques that could be used to better protect skates and rays species, such as the raised fishing line trawl to reduce catches which could be implemented in other areas than the Celtic Sea. Another example is the Benthos Release Panel (BRP) in combination with led, as tested through the Combituig project (EMFF project by ILVO, Belgium).

6. Process and next steps

The NWWAC would like to draw attention to a few examples of successes and of good practices implemented in the NWW.

- Ireland Fisheries Improvement Projects – drive for certification
 - Irish Prawn FIP ([link](#))
 - Irish Whitefish FIP ([link](#))
 - Brown Crab FIP ([link](#))



- Irish Albacore Tuna FIP ([link](#))
- France Eastern English Channel thornback ray FIP ([link](#))
- The whelk fishery in Granville Bay, Normandy, France ([link](#))

In particular, the NWWAC wishes to point out the [Fisheries Natura Plan for cockle \(*Cerastoderma edule*\) in Dundalk Bay](#) by the Irish Department of Agriculture, Food and the Marine. This is a 5-year plan (2021-2025) that sets out the management measures to be undertaken by the vessel owners holding permits to fish cockle to ensure a fishery that is sustainable and that minimises ecosystem impact. This constitutes a good example of all parties being catered for with a good assessment and plan, taking care of both birds, shellfish stock and fishers.

The professional fishing sector is strongly committed to sustainable fishing and stock management objectives. Some good practices adopted in France have difficulties to be adopted at the regional level. One example is the tagging programme for the red lobster¹⁰ (*Palinurus elephas*). This species is classified on the IUCN red list as vulnerable. The sharp decline of the spiny lobster stock in recent decades has led fishers to collect data through a juvenile tagging campaign and to implement management measures, the results of which have shown an improvement in the health of the stock in recent years: the minimum catch size of red spiny lobsters has been raised at the national level from 95 mm (community size) to 110 mm. In 2021, the obligation to band all landed red lobsters has been extended to the national level. This strong measure encourages fishers to take the management of this species into their own hands, to ensure that the minimum size is respected, and to monitor the effectiveness of other management measures taken.

In the [Commission's letter from 16 April 2020 on the Involvement of Advisory Councils in the preparation of Joint Recommendations under the CFP](#), the then acting Director-General outlined the basis for the development of Joint Recommendations referring to guidance on good practices ([Staff Working Document SWD\(2018\)2881](#)) "including the early and meaningful consultations with all relevant stakeholders, and the transparency of the procedures." While the staff working document relates specifically to the development of Joint Recommendations on the establishment of conservation measures under the CFP for Natura 2000 sites and for MSFD purposes, the acting Director-General referred to these as an example on overall collaboration and cooperation between Advisory Councils, Regional Groups and the Commission. Regarding the development of Joint Recommendations, the document states:

"During the preparation of joint recommendations, in accordance with Article 18(2) of the CFP, Member States have to consult the Advisory Councils established under the CFP.

In order for this consultation to be meaningful and, in line with other established areas of good practice, in consulting partners (Member States and stakeholders), the following best practices have been identified:

- (a) timely disclosure of and easy access to relevant information, including an indicative timeline;
- (b) sufficient time for partners to analyse and comment on key preparatory documents;
- (c) available channels through which partners may ask questions, may provide contributions and are informed of the way in which their proposals have been taken into consideration;
- (d) dissemination of the outcome of the consultation.

While the timelines are not specified regarding the consultation between Regional Groups and ACs, it stands to reason that the timelines provided for development of a Joint Recommendation, i.e., six months, could be indicative regarding the involvement of the ACs. The NWWAC believes that a higher level of integration of stakeholder advice in the development of Joint recommendations could be achieved if additional protocols

¹⁰ <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043311602>
<https://www.comite-peches.fr/pecheurs-devront-marquer-langoustes-rouges-juin-2019-bretagne/>
http://www.bretagne-peches.org/?titre=langoustes-rouges-marquage-obligatoire-des-individus-peches-et-debarques-en-bretagne&mode=actualites&rubrique=espace_professionnel&id=3445

were put in place, for example those used in Strategic Environmental Assessments (SEAs) where transparency and public participation are key principles. One way of achieving a more integrated approach would be for the ACs to attend technical meetings of the Member States Group in their entirety. This would also aid in information from the Commission reaching the ACs directly.

The NWWAC also recommends that further cooperation is fostered between technical fisheries representatives of the regional groups with the technical environmental counterparts. This collaboration should be extended to include the ACs, who, in addition, need to be enabled to exchange views directly with representatives from DG ENV in conjunction with the relevant technical representatives from DG MARE.

7. Regional cooperation

The NWWAC recommends the following to improve regional cooperation with the aim of conserving fisheries resources and protecting marine ecosystems:

- Fishing agreements with neighbouring third countries should be binding. With many of the targeted stocks in the North Sea and the North-East Atlantic shared across boundaries, it is important that these continue to be jointly managed through bilateral and trilateral agreements based on science and mutual cooperation.
- Enhanced cooperation is needed with the UK regarding technical measures in the framework of the TCA to ensure that technical measures taken by the UK are proportionate, non-discriminatory, based on best scientific advice and in line with EU sustainability objectives.
- France has many overseas territories whose environmental, socio-economic, geographical and cultural specificities sometimes make the application of European measures rather delicate since the fishing pressures and practices as well as the species are not the same as in Metropolitan France. The Action Plan should consider these specificities in its implementation and in the framework of regional cooperation and the fight against IUU fisheries near those waters.
- In the context of the MSFD and related topics that touch upon both biodiversity protection and fisheries management, including the interface between bottom trawling and MPAs, the NWWAC would like to stress that further cross-sectorial collaboration is needed. This can be achieved in the context of the Advisory Councils, while also fostering collaboration between Regional Fisheries Management Organizations (RFMOs) and Regional Seas Conventions (RSCs) through already-established cross-sectorial initiatives, including the Sustainable Ocean Initiative Global Dialogue within the framework of the UN Convention on Biological Diversity.